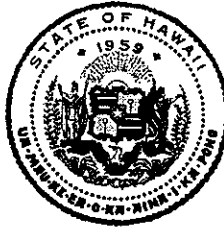


NEIL ABERCROMBIE
GOVERNOR



STATE OF HAWAII
DEPARTMENT OF PUBLIC SAFETY
919 Ala Moana Blvd. 4th Floor
Honolulu, Hawaii 96813

JODIE F. MAESAKA-HIRATA
DIRECTOR

MARTHA TORNEY
Deputy Director of
Administration

JOE W. BOOKER, JR.
Deputy Director
Corrections

KEITH KAMITA
Deputy Director
Law Enforcement

No. _____

TESTIMONY ON SENATE BILL 2158,
A BILL FOR AN ACT RELATING TO BAIL

By
Jodie F. Maesaka-Hirata, Director
Department of Public Safety

House Committee on Finance
Representative Marcus R. Oshiro, Chair
Representative Marilyn B. Lee, Vice Chair

Friday, March 30, 2012, 4:00 PM
State Capitol, Room 308

Chair Oshiro, Vice Chair Lee, and Members of the Committee:

The Department of Public Safety (PSD) supports the intent of Senate Bill 2158 that would require law enforcement agencies to accept cash bail, certified copies of pre-filed bail bonds, and original bail bonds when the court is closed, including nights, weekends, and holidays to facilitate the prompt release after acceptance of bail. The Department presently does not have the staff at this time to accommodate this added service. Senate Bill 2158 would also require that all law enforcement agencies accepting cash bail or an original bail bond submit the cash or bail to the court with jurisdiction no later than 4:00 PM on the first business day following acceptance. This requirement, especially on the neighbor islands and rural areas, could cause difficulties in law enforcement agencies complying with delivering the cash or bond within the specified 4:00 PM time limit to the court with jurisdiction.

Thank you for allowing me to comment on Senate Bill 2158.



SB2158
RELATING TO BAIL
House Committee on Finance

March 30, 2012

4:00 p.m.

Room 308

The Office of Hawaiian Affairs (OHA) **SUPPORTS** SB2158, which expands the ability of law enforcement agencies to accept bail.

OHA's 2010 report, "The Disparate Treatment of Native Hawaiians in the Criminal Justice System," and the recently completed study by the Justice Reinvestment Initiative indicate that there is a clear need for smart justice solutions like reducing barriers to posting bail.

Arrest does not prove guilt. Those who cannot post bail due to bureaucratic barriers are kept from jobs, family and the ability to secure a proper legal defense. This can lead to a further involvement with the criminal justice system, which is ultimately a waste of resources. Currently the neighbor islands have models for providing swift access to posting bail. Hopefully this bill will create a baseline for eligible persons to post bail statewide.

Mahalo for the opportunity to testify on this important measure. We urge your committee to PASS SB2158.

**Testimony of the Office of the Public Defender
State of Hawaii
to the House Committee on Finance**

March 30, 2012

S.B. No. 2158: RELATING TO BAIL

Chair Oshiro and Members of the Committee:

We support passage of S.B. No. 2158. Currently, if a person is taken into custody by the Department of Public Safety during non-regular business hours -- specifically, nights, weekends and holiday -- that person is not able to post bail during those hours. This is the case even if the person is in current possession of the bail amount. The current situation means that, once a person is in the custody of Public Safety, that person can only post bail at the courthouse during normal business hours.

The right to bail is guaranteed by both the United States and Hawaii Constitutions. H.R.S. § 804-3 also statutorily assures the right to bail for persons charged with criminal offenses except in certain, very limited, instances. By not accepting bail, the entity which has custody of a detainee is, effectively, denying that person of his/her constitutional and statutory right to bail. This situation is particularly egregious when a detainee has the required amount of bail in his/her possession but cannot convey that amount to the appropriate authority to gain his/her immediate release. The right to bail should not be dependent upon the day of the week that a person is received into custody.

Thank for the opportunity to comment on this measure.

DA KINE BAIL BONDS

1381 Queen Emma Street
Honolulu, HI 96813
(808) 921-2245

**HOUSE OF REPRESENTATIVES
THE TWENTY-SIXTH LEGISLATURE
REGULAR SESSION OF 2012**

**COMMITTEE ON FINANCE
Rep. Marcus R. Oshiro, Chair**

Friday, March 30, 2012
4:00 p.m.
Conference Room 308

SB 2158, SD 1, HD 1
Relating to Bail

Chair Oshiro and Members of the Finance Committee,

We are Duane and Beth Chapman of Da Kine Bail Bonds, testifying in support of SB 2158.

In summary, this bill will allow individuals to post bail at night and on weekends and holidays.

Currently, Hawaii jails do not accept cash for traffic fines or cash bonds during these "after hours" times. This causes a massive backlog in our jails, and an even bigger back up in our courts every Monday morning.

If someone gets arrested on a Friday evening or over the weekend for a misdemeanor infraction, such as a minor traffic offense, and are able to post their own bail, they are not allowed to do so until Monday of the following week. If the Monday is a holiday, they will remain in jail, at taxpayer expense, until Tuesday. It costs taxpayers \$200 a day to house an inmate.

Allowing these kinds of individuals, who would be released the following Monday, anyway, to post bail on weekends and holidays, will open up much-needed bed space for the more serious offenders and hardened criminals, and save taxpayers' money by not having to house individuals unnecessarily.

Mahalo for allowing us to testify and we urge your support!

HOUSE OF REPRESENTATIVES
THE TWENTY-SIXTH LEGISLATURE
REGULAR SESSION OF 2012
COMMITTEE ON FINANCE

Rep. Marcus R. Oshiro, Chair

Rep. Marilyn B. Lee, Vice Chair

DATE: Friday, March 30, 2012

TIME: 4:00 P.M.

PLACE: Conference Room 308

Testimony in favor of SB2158 Relating to 24 Hour Bail Release and From Whom Bail May be Accepted.
Presented by, James Waldron Lindblad for Professional Bail Agents of Hawaii.

SB 2158
(HSCR1141-12)

Status

RELATING TO BAIL.

Requires law enforcement agencies to accept cash bail, certified copies of pre-filed bail bonds, and original bail bonds when the court is closed, including nights, weekends, and holidays. Specifies from whom bail may be accepted. Requires prompt release after acceptance of bail.

Presently many persons are detailed needlessly at Oahu Prison over the weekend who could otherwise afford bail due to Admin Order 2.1 of 1996, wherein the court ruled all bail for those persons in custody within the Department of Public Safety must be collected, filed or delivered to the court in order to effect release of those detained in pretrial status. Of course, the court closes daily and the court is also closed on weekends and holidays and this contributes to crowding. We also believe the present system on bail for those at OCCC and MCCC is not fair or just and thus we seek relief.

1. SB 2158 would allow for 24 hour release on bail for those persons detained within Department of Public Safety like OCCC. Presently, persons in Department of Public Safety Custody can pay bail only when the court is open.
2. This bill would allow defendants to pay their own cash bail amounts directly at the facility where they are detained. Presently, defendants cannot pay their own bail because the bail must be paid at the court.
3. SB 2158 would speed release for those persons already determined eligible for release by the court by a providing clarity to the taking of bail for all relevant law enforcement agencies.

Please pass SB2158.

FINTestimony

m: mailinglist@capitol.hawaii.gov
Cont: Thursday, March 29, 2012 11:44 AM
To: FINTestimony
Cc: anthonySimoneau@gmail.com
Subject: Testimony for SB2158 on 3/30/2012 4:00:00 PM

Testimony for FIN 3/30/2012 4:00:00 PM SB2158

Conference room: 308
Testifier position: Support
Testifier will be present: No
Submitted by: Tony Simoneau
Organization: Individual
E-mail: anthonySimoneau@gmail.com
Submitted on: 3/29/2012

Comments:

This bill I support with reservation on the actual implementation thereof. I found myself as a first time offender in 2011. I was not afforded a bail call till almost 3 weeks after my pretrial detention, despite a litany of attempts by the policies set forth by PSD and OCCC to administratively ask to do so. I wish I could say this was an anomaly, but many pretrial detainees I talked with had similar experiences. This detention is at the expense of taxpayers and the state, not to mention a violation of 42 USC 1997 Constitutional Rights Violations. 42 USC 1983 is also in violation. Oversight of PSD and OCCC regarding this right bail needs to be addressed and enforced.

Thank You